

## REMARKS

The above amendment with the following remarks is submitted to be fully responsive to the Office Action of August 18, 2008. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested. Claims 1-28 were pending in the present application. Claims 1, 8, 14 and 20 are independent claims. Claims 1, 8, 14 and 20 are amended to more particularly claim that which Applicants regard as the invention. Claims 1-28 are still pending in the present application and are believed to be in condition for allowance.

Referring now to the Office Action, claims 1-19 and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,466,915 to Suzuki et al. (Suzuki) in view of U.S. Patent No. 6,871,012 to Evans (Evans) and further in view of U.S. Patent No. 7,165,105 to Reiner et al. (Reiner).

With respect to claims 1, 8 and 14, the Office asserts that “Suzuki differs in that it does not disclose usage events that include play event types describing how the content is consumed and a time stamp indicating when the event occurred.” The Office then asserts Evans discloses “the use of resume, complete, pause and cancels as disclosed in Col. 3, lines 41-45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use multi-media of resume, complete, pause and cancel. Skilled artisan would have been motivated to incorporate such feature to allow the user to navigate and browses throw the items without change the display on the screen.” Further the Office asserts that Suzuki in view of Evans differs, in that “it does nor disclose usage events that include play event types describing how the content is consumed and a time stamp indicating when the event occurred. However, Reiner at FIG. 3B discloses an interface which can create data model which records a play event type (viewing web pages) that describes how digital content is consumed (number of pages viewed during a visit and number of visits during a time period) and a time stamp indicating when the event occurred (the time period of visits from starting date to ending date). Accordingly, it would have been obvious to one of ordinary skill in the art to modify Suzuki to further include a data model which records additional usage events in the form of a play event type (viewing of web pages) which describes how the content is used and timestamps indicating the period of use. Such

modification would have been motivated by the advantage of gauging web marketing performance for e-business decisions, as specified at col. 1, lines 20-30 of Reiner.”

Amended independent claims 1, 8 and 14 each recite the feature of “wherein said usage events include a play event type describing how the digital content is consumed, the play event type includes each of begin, resume, complete, pause, error and cancel indicators, and a timestamp indicating when each play event type occurs.” (See, for example, paragraphs [0031] to [0036] of published application). That is, for a multimedia entertainment file, such as a digital audio or video file, the first device tracks usage events include a play event type including each of begin, resume, complete, pause, error and/or cancel, and a corresponding timestamp.

The Office acknowledges that Suzuki in view of Evans does not disclose usage events that include play event types describing how the content is consumed and a time stamp indicating when the event occurred. Applicants respectfully submit that Reiner also does not disclose usage events that include play event types including each of begin, resume, complete, pause, and cancel indicators, describing how the content is consumed and a time stamp indicating when the event occurred, as presently claimed.

In contrast, Evans is directed to enhancing the DVD navigator component. Additionally, Reiner is directed to a method for logical view visualization of user behavior in a networked computer environment that includes sites that a user may visit and wherein the sites comprise pages that the user may view and/or resources that the user may request includes the step of collecting raw data representing user behavior which can include requesting resources, viewing pages and visiting sites by the user. Further, neither Evans nor Reiner teach the feature of consumption of digital content by a play event including each of begin, resume, complete, pause, error and/or cancel indicators of the digital content. Instead, the method and arrangement of Evans describes certain enhancements and features associated with a generic DVD navigator and the method of Reiner collects data regarding sites that a user may view or resources that the user may request.

Applicants respectfully submit that neither Suzuki, Evans nor Reiner teach, disclose or suggest usage events that include play event types including each of begin, resume, complete, pause, error and cancel indicators, describing how the content is consumed

and a time stamp indicating when the event occurred. Because Suzuki, Evans and Reiner, either alone or in combination, do not teach each and every element of independent claims 1, 8 and 14, Applicants submit that Suzuki, Evans and Reiner do not render claims 1, 8 and 14 unpatentable. Accordingly, Applicants request the rejection of these claims be withdrawn and the claims be allowed. Additionally, because claims 2-7, 9-13, 15-19 and 23-28 depend from independent claims 1, 8, and 14, Applicants request the rejection of these claims be withdrawn and the claims be allowed.

Claims 20-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Suzuki in view of Evans and further in view of Reiner and further in view of U.S. Patent No. 6,507,727 to Henrick (Henrick).

With respect to claim 20, the Office states that “FIGS. 5A-5C of Henrick illustrate a portable device which can download digital audio content, such as a song file (“download song”). The portable device is thus a digital audio player. The digital content can be purchased (abstract, line 1).” Further, the Office states that “[i]t would have been obvious to one of ordinary skill in the art to modify the terminal (200) of Suzuki et al. to be a portable cellular terminal configured to additionally download audio content as taught by Henrick so as to permit portability of the terminal and permit both physical items (clothing) and digital content (songs) to be purchased from the same system.”

Amended independent claim 20 also recites the feature of “wherein said usage events include a play event type describing how the digital content is consumed, the play event type includes each of begin, resume, complete, pause, error and cancel indicators, and a timestamp indicating when each play event type occurs.” That is, the first device monitors consumption of an audio file selected from a digital content storage, and generates usage data based upon usage events including a play event type including begin, resume, complete, pause, error and/or cancel indicators, and a corresponding timestamp.

Applicants submit that neither Suzuki, Evan, Reiner nor Henrick teach, disclose or suggest monitoring consumption of an audio file selected from a digital content storage, and generating usage data based upon usage events including a play event type including begin, resume, complete, pause, error and/or cancel indicators, and a corresponding timestamp, as is claimed.

As noted above, the Office acknowledges that Suzuki does not disclose usage events that include play event types describing how the content is consumed and a time stamp indicating when the event occurred. Suzuki also does not disclose monitoring the consumption of an audio file selected from a digital content storage, as is claimed.

As argued above, Applicants submit that Reiner does not disclose usage events that include play event types including three or more of begin, resume, complete, pause, and cancel indicators, describing how the content is consumed and a time stamp indicating when the event occurred. Reiner also does not disclose monitoring the consumption of an audio file selected from a digital content storage, as is claimed.

With respect to Henrick, the reference is directed to a system that facilitates the purchase and delivery of audio and video content (*e.g.*, entertainment media) over the Internet. The system allows a user who hears or sees an audio or video broadcast to use a cell phone or other wireless device to order the broadcast material, and have it remotely delivered to an independent device (*e.g.*, the user's personal computer) without further user intervention. Thus, the system allows the user to order the desired content using a wireless device that the user will often have in his or her possession when he or she hears or sees the desired content, but to have the content delivered to a second remote device.

Henrick does not disclose usage events that include play event types including begin, resume, complete, pause, and/or cancel indicators, describing how the content is consumed and a time stamp indicating when the event occurred. Henrick also does not disclose monitoring, at the first device, the consumption of an audio file selected from a digital content storage, as is claimed.

Applicants respectfully submit that neither Suzuki, Evans, Reiner nor Henrick teach, disclose or suggest monitoring consumption of an audio file selected from a digital content storage, and generating usage data based upon usage events including a play event type such as begin, resume, complete, pause, and/or cancel indicators, and a corresponding timestamp. Because Suzuki, Evans, Reiner, and Henrick, either alone or in combination, do not teach each and every element of independent claim 20, Applicants submit that Suzuki, Evans, Reiner and Henrick do not render claim 20 unpatentable. Accordingly, Applicants request the rejection of this claim be withdrawn and the claim be allowed. Additionally,

because claims 21 and 22 depend from independent claim 20, Applicants request the rejection of these claims be withdrawn and the claims be allowed.

In view of all of the foregoing, Applicants submit that this application is now in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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